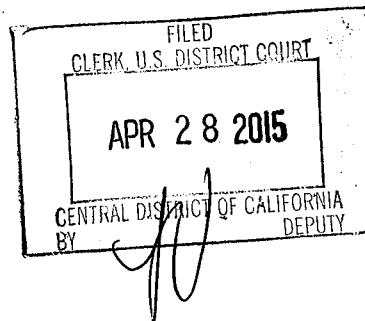


1 Name: JASON PAUL LEGARE
2 Address: CVSP B5-6-2L
3 P.O. BOX 2349 BLYTHE, CA. 92226
4 Phone: _____
5 Plaintiff In Pro Per
6



7 **UNITED STATES DISTRICT COURT**
8 **CENTRAL DISTRICT OF CALIFORNIA**

9 JASON PAUL LEGARE _____
10) Case No.: EFCV15-00833JVS(VBK)
11) (To be supplied by the Clerk)
12) **PLAINTIFF,**
13)
14) **vs.**
15) J. MICHAEL LEE, Chief Medical _____
16) Officer & M.D., & JOHN F. KENNEDY _____
17) MEMORIAL HOSPITAL, Dr. S. MURAKONDA, _____
18) M.D., S. RODRIGUEZ, R.N., N. HART, _____
19) R.N., M. KALIAN, RN., M. KURTZMAN, _____
20) R.N., et al. (See attached Complaint)
21) **DEFENDANT(S).**
22)
23)
24)
25)
26)
27)
28)

) **COMPLAINT FOR:**

) **CIVIL RIGHTS COMPLAIN**

) **42 U.S.C. § 1983 & California**

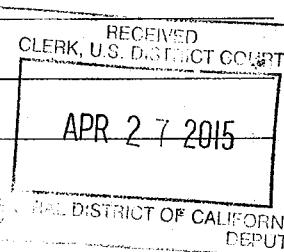
) **Torts Claim Act (Govt.Code 810 et**

) **seq.)**

) **Jury Trial Demanded**

20 **I. JURISDICTION**
21

22 1. This Court has jurisdiction under 28 U.S.C. §1331 & 1343 (a)(3)
23
24
25
26
27
28



II. VENUE

2. Venue is proper pursuant to §1391(b)(2) as the events occurred in Riverside County in the State of California.

III. PARTIES

3. Plaintiff's name is JASON PAUL LEGARE. Plaintiff resides at: CHUCKAWALLA STATE PRISON AT BLYTHE, CALIFORNIA

4. Defendant SEE ATTACHED COMPLAINT

5 Defendant SEE ATTACHED COMPLAINT

1 Defendant see attached complaint
2 *Insert ¶ #*
3
4
5
6
7

8 Defendant SEE ATTACHED COMPLAINT
9 *Insert ¶ #*
10
11
12
13
14

15 Defendant SEE ATTACHED COMPLAINT
16 *Insert ¶ #*
17
18
19
20
21

22 Defendant SEE ATTACHED COMPLAINT
23 *Insert ¶ #*
24
25
26
27
28

1
2 **IV. STATEMENT OF FACTS**
3

4 SEE ATTACHED COMPLAINT (TO LENGTHY FOR SPACE)
5

6 Insert ¶ # PP. 7 through 12
7

8
9
10
11
12

13 **FIRST CAUSE OF ACTION**
14

15 Insert ¶ # VIOLATION OF PRISONER'S EIGHTH AND FOURTEENTH AMENDMENTS FOR
16

17 DELIBERATE INDIFFERENCE TO HIS SERIOUS MEDICAL NEEDS
18

19 (SEE ATTACHED COMPLAINT TOO LENGTHY TO RECITE)
20

21 pp. 12 - through 14
22

23
24
25
26
27
28

21 **SECOND CAUSE OF ACTION**
22

23 Insert ¶ # VIOLATION OF CALIFORNIA STATE TORTS CLAIMS ACT FOR MEDICAL NEGLIGENCE
24

25 GROSS NEGLIGENCE AND MEDICAL MALPRACTICE
26

27 (SEE ATTACHED COMPLAINT TOO LENGTHY TO RECITE)
28

21 pp. 14 through 16
22

1
2
3
4 VI. REQUEST FOR RELIEF
5
6

7 WHEREFORE, the Plaintiff requests:

8 DECLARATORY RELIEF;

9 Insert ¶ # COMPENSATORY DAMAGES ACCORDING TO PROOF;

10 PUNITIVE AND EXEMPLARY DAMAGES ACCORDING TO PROOF;

11 COST OF SUIT & ANY OTHER RELIEF THE COURT DEEMS NECESSARY

12 Insert ¶ #
13
14
15
16
17 Insert ¶ #
18
19
20
21
22 Insert ¶ #
23
24
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2
3
VII. DEMAND FOR JURY TRIAL
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5
6

7 Plaintiff hereby requests a jury trial on all issues raised in this complaint.
8
9

10 Dated: 3-30-15
11
12

13 Sign: *Jason Legare*
14
15

16 Print Name: *JASON LEGARE*
17
18

19 Plaintiff in pro per
20
21
22
23
24
25
26
27
28

1 JASON PAUL LEGARE
2 H-56058 B5-6-2L
3 CHUCKAWALLA STATE PRISON
P.O. BOX 2349
3 BLYTHE, CALIFORNIA 92226

4

5 In Pro-Se

6

7

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE CENTRAL DISTRICT OF CALIFORNIA

10

11 JASON PAUL LEGARE,) CASE NO.
12 Plaintiff,)
13 vs.) CIVIL RIGHTS COMPLAINT
14 J. MICHAEL LEE, Chief) 42 U.S.C. §1983
15 Medical Officer & M.D.,)
16 Dr. SAMUEL S. LEE, M.D.,)
& JOHN F. KENNEDY)
17 MEMORIAL HOSPITAL, Dr.) California Torts Claim Act
S.MURAKONDA, M.D., S.) (Govt. Code §810 et seq.
RODRIGUEZ, Registered)
18 Nurse III, N.. HART,)
Registered Nurse II, M.)
19 KALIAN, Registered Nurse,)
M. KURTZMAN, Registered)
20 Nurse, Y. SOTO, Registered)
Nurse, D. CAPP, Licensed)
21 Registered Nurse, R.ROSAS,)
Licensed Registered Nurse,)
22 K. KUNDA, Correctional)
Officer.)
23 Defendants.)
24

25 I. NATURE OF ACTION

26 1. This is a civil rights action authorized by 42 U.S.C. §1983
27 filed by Plaintiff JASON PAUL LEGARE, a state prisoner, to
redress the deprivation, under the color of state law, of rights

1 secured by the Constitution of the United States and State
2 torts (Govt.Code 810 et seq.). The court has jurisdiction
3 under 28 U.S.C. §1331 & 1343 (a)(3). Plaintiff alleges a
4 violation of his constitutional rights to receive proper
5 medical care. Plaintiff seeks money damages and declaratory
6 relief pursuant to 28 U.S.C. §§2210 and 2202 as well as the
7 California torts act. (Govt. Code §810 et seq.)

8 2. The Central District of California is an appropriate venue
9 under §1391 (b)(2), because the events giving rise to
10 plaintiff's claims occurred in Riverside County in the State
11 of California.

12 II.

13 Plaintiff

14 3. Plaintiff, JASON PAUL LEGARE, is and was at all times
15 mentioned herein a prisoner of the State of California in the
16 custody of the California Department of Corrections &
17 Rehabilitation (CDCR). Plaintiff is currently confined in
18 Chuckawalla State Prison (CVSP) in Blythe, California.

19 III.

20 Defendants

21 4. Defendant J. MICHAEL LEE, Chief Medical Officer, is and at
22 all times relevant to this action the chief Medical Officer and
23 Health Care Manager at CVSP where the events giving rise to
24 this action occurred. Defendant J. MICHAEL LEE, is responsible
25 for training and supervising the provision of adequate medical
26 care for prisoners at CVSP. Defendant J. MICHAEL LEE, has a
27 duty to ensure inmates at CVSP receive proper medical care.

1 Defendant J. MICHAEL LEE knew or should have known that
2 defendant Nurses S. RODRIGUEZ, N. HART, M. KALIAN, M. KURTZMAN,
3 D. CAPP, and R. ROSAS, as well as defendant Dr. MURAKONDA were
4 unfit or incompetent which created a risk to plaintiff. At all
5 times mentioned defendant J. MICHAEL LEE was acting under the
6 color of state law in the course and scope of his employment
7 and is sued in his official and individual capacities.

8 5. Defendant Dr. SAMUEL S. LEE, is a private doctor employed
9 by Defendant JOHN F. KENNEDY MEMORIAL HOSPITAL and under
10 contract with CDCR to provide medical care and services to
11 inmates confined with CDCR including JASON PAUL LEGARE.
12 Defendant SAMUEL S. LEE has the duty to provide adequate
13 medical care for prisoners at CVSP. At all times mentioned
14 defendant SAMUEL S. LEE was acting under the color of state
15 law in the course and scope of his employment, and is sued in
16 his individual capacity.

17 6. Defendant JOHN F. KENNEDY MEMORIAL HOSPITAL is a private
18 hospital under contract with CDCR to provide medical care and
19 services to inmates confined with CDCR including JASON PAUL
20 LEGARE and employs defendant Dr. SAMUEL S. LEE. Defendant
21 JOHN F. KENNEDY MEMORIAL HOSPITAL has the duty to provide
22 adequate medical care for prisoners at CVSP. Defendant JOHN
23 F. KENNEDY knew or should have known that defendant SAMUEL S.
24 LEE was unfit or incompetent which created a risk to plaintiff
25 and others. As a result of defendant SAMUEL S. LEE's
26 incompetence plaintiff was harmed. Defendant JOHN F. KENNEDY
 MEMORIAL HOSPITAL was acting under the color of state law in

1 the course and scope of his employment and is sued in their
2 individual capacities.

3 7. Defendant Dr. S. MURAKONDA is and at all times relevant to
4 this action is a Doctor at CVSP and is responsible and has a
5 duty to adequately provide medical care for prisoners at CVSP
6 where the events giving rise to this action occurred. At all
7 times mentioned defendant S. MURAKONDA was acting under the
8 color of state law in the course and scope of her employment
9 and is sued in her official and individual capacities.

10 8. Defendant Supervising Registered Nurse III S. RODRIGUEZ,
11 is and at all times relevant to this action the supervising
12 registered nurse at CVSP where the events giving rise to this
13 action occurred. Defendant S. RODRIGUEZ, has the duty and is
14 responsible for supervising and training of all nurses at CVSP
15 in order to provide adequate medical care for prisoners at
16 CVSP. Defendant S. RODRIGUEZ knew or should have known that
17 defendant nurses N. HART, M. KALIAN, M. KURTZMAN, Y. SOTO, D.
18 CAPP, and R. ROSAS were unfit or incompetent which created a
19 risk to plaintiff JASON PAUL LEGARE. As a result, defendant
20 S. RODRIGUEZ' incompetence plaintiff was harmed. At all times
21 mentioned defendant RODRIGUEZ was acting under the color of
22 state law in the course and scope of her employment and is sued
23 in her official and individual capacities.

24 9. Defendant Supervising Registered Nurse II N. HART, is and
25 at all times relevant to this action the supervising registered
26 nurse at CVSP where the events giving rise to this action
27 occurred. Defendant HART is responsible for supervising and
28

1 training of all nurses at CVSP in order to provide adequate
2 medical care for prisoners at CVSP. Defendant HART knew or
3 should have known that defendant nurses M. KALIAN, M. KURTZMAN,
4 Y. SOTO, D. CAPP, and R. ROSAS were unfit or incompetent which
5 created a risk to plaintiff JASON PAUL LEGARE. As a result,
6 defendant N. HART's incompetence plaintiff was harmed. At all
7 times mentioned defendant HART was acting under the color of
8 state law in the course and scope of her employment and is sued
9 in her official and individual capacities.

10 10. Defendant Registered Nurse M. KALIAN, is and at all times
11 relevant to this action a registered nurse at CVSP where the
12 events giving rise to this action occurred. Defendant M.
13 KALIAN is responsible and has the duty to provide adequate
14 medical care for prisoners at CVSP. At all times mentioned
15 defendant KALIAN was acting under the color of state law in the
16 course and scope of her employment and is sued in her official
17 and individual capacities.

18 11. Defendant Registered Nurse M. KURTZMAN, is and at all
19 times relevant to this action a registered nurse at CVSP where
20 the events giving rise to this action occurred. Defendant M.
21 KURTZMAN is responsible and has the duty to provide adequate
22 medical care for prisoners at CVSP. At all times mentioned
23 defendant KURTZMAN was acting under the color of state law in
24 the course and scope of her employment and is sued in her
25 official and individual capacities.

26 12. Defendant Registered Nurse Y. SOTO, is and at all times
27 relevant to this action a registered nurse at CVSP where the
28

1 events giving rise to this action occurred. Defendant Y. SOTO
2 has the duty to provide adequate medical care for prisoners at
3 CVSP. At all times mentioned defendant SOTO was acting under
4 the color of state law in the course and scope of her
5 employment and is sued in her official and individual
6 capacities.

7 13. Defendant Licensed Vocational Nurse R. ROSAS is and at all
8 times relevant to this action a Licensed Vocational Nurse at
9 CVSP where the event giving rise to this action occurred.
10 Defendant ROSAS is responsible and has the duty to provide
11 adequate medical care for prisoners at CVSP. At all times
12 mentioned defendant ROSAS was acting under the color of state
13 law in the course and scope of her employment and is sued in
14 her official and individual capacities.

15 14. Defendant Licensed Vocational Nurse D. CAPP is and at all
16 times relevant to this action a Licensed Vocational Nurse at
17 CVSP where the event giving rise to this action occurred.
18 Defendant CAPP is responsible and has the duty to provide
19 adequate medical care for prisoners at CVSP. At all times
20 mentioned defendant CAPP was acting under the color of state
21 law in the course and scope of her employment and is sued in
22 her official and individual capacities.

23 15. Defendant Correctional Officer K. KUNDA, is and at all
24 times relevant herein employed by the CDCR as a correctional
25 officer at CVSP where the events giving rise to this action
26 occurred. Plaintiff is informed and believes, and thereon
27 alleges, that defendant KUNDA is a properly trained
28

1 correctional officer who is responsible for the safety and
2 security and over-all well being of all inmates at CVSP. At
3 all times mentioned defendant KUNDA was acting under the color
4 of state law in the course and scope of his employment.

5 IV.

6 FACTS

7 16. Plaintiff, JASON LEGARE, is a prisoner at the CVSP who
8 arrived on July 15, 2014, from Richard J. Donovan State Prison.
9 Plaintiff suffered from acute left hydrocele. (Grossley
10 enlarged left testicle.) This symptom was likely due to
11 complications from a surgery plaintiff underwent for a left
12 varicocele repair and epididymal cyst surgery in 2007.

13 17. On September 10, 2014, plaintiff underwent a left
14 hydrocelectomy with scrotal exploration at John F. Kennedy
15 Memorial Hospital at Sondona Surgery Center. The procedure was
16 performed without a glitch by defendant Doctor SAMUEL S. LEE,
17 M.D.. An eight (8) inch plus penrose drain was stitched in
18 place to the scrotum for drainage. Dr. LEE forwarded post-op
19 instructions to medical staff at CVSP for the removal of the
20 penrose drain for the following day. Defendant SAMUEL LEE did
21 not instruct the institution as to post-op dressing changes to
22 surgical area.

23 18. Immediately upon arriving back to the institution,
24 plaintiff found the surgical area was blood soaked. Plaintiff
25 reported to the facility clinic and informed defendant R.N. Y.
26 SOTO that he was bleeding excessively in the surgical area and
27 requested a dressing change. Defendant SOTO refused to change

1 the dressing or even supply plaintiff with gauze. Plaintiff
2 found it very difficult to walk in his condition but was
3 refused a wheelchair and was forced to walk in his condition.
4 19. The following morning at approximately 0730 hours on
5 September 11, 2014, plaintiff reported to the facility clinic
6 and informed defendants ROSAS and KALIAN that he was
7 experiencing excessive bleeding and that the post-op
8 instructions was for the penrose drain to be removed on that
9 date. Both defendants ROSAS and KALIAN refused to examine
10 plaintiff but provided a small amount of gauze and told to go
11 back to his bed and wait after making comments such as , "I'm
12 not touching them" among other things.

13 20. The same day at 10:30 A.M. the bleeding had soaked through
14 the gauze, scrotal support and plaintiff's boxers. Plaintiff
15 notified custody staff who immediately sent plaintiff to the
16 facility clinic. Plaintiff was examined by defendants KALIAN
17 and MURAKONDA in the surgical area and was told that the
18 penrose drain was not intact. Plaintiff disagreed and stated
19 he could feel it and must be there and requested they remove
20 it. Defendants MURAKONDA and KALIAN were adamant it was not
21 there, refused to change the dressing, and handed plaintiff
22 some gauze and sent him away. Plaintiff was forced again to
23 try and clean the surgical area without anti-bacterial soap and
24 change the dressing himself without the ability to see the
25 area.

26 21. The following day, on September 12, 2014, a lump began
27 developing with pain. Plaintiff reported to the facility

1 clinic to complain of the development and was refused entry to
2 talk to any medical staff by defendant correctional officer K.
3 KUNDA by stating, "they were busy, deal with it yourself."

4 22. On September 15, 2014, the pain became acute and plaintiff
5 again reported to the facility clinic and was seen by
6 defendants MURAKONDA and ROSAS and plaintiff reported acute
7 pain and lump in surgical area. Defendants MURAKONDA and ROSAS
8 refused to examine plaintiff and was sent away.

9 23. On September 17, 2014, plaintiff was still suffering from
10 acute pain in the surgical area and reported to the facility
11 clinic and was refused an examination by defendant ROSAS and
12 again acting as a "gatekeeper" when plaintiff requested to see
13 the doctor, was told by defendant KUNDA, "to leave the clinic
14 area."

15 24. Plaintiff placed a Medical request form (CDCR 7362) in the
16 medical box in front of the facility clinic on September 21,
17 2014. Plaintiff is now suffering acute pain in surgical area
18 where by now certainly is infected. Plaintiff suffered
19 headaches, lack of sleep, and emotional distress.

20 25. On September 24, 2014, plaintiff was finally examined by
21 defendants MURAKONDA and D. CAPP and again was told, "it's all
22 normal." Plaintiff informed defendant MURAKONDA and CAPP of
23 the "lump and pain" and "probable infection" but again was told
24 to leave the clinic area.

25 26. Plaintiff continues to suffer from pain in the surgical
26 area, headaches, lack of sleep, and emotional distress.

27 Finally, on October 9, 2014 plaintiff was seen by Defendant

1 SAMUEL LEE by "telemeds" where plaintiff explained of his
2 experience and an ultrasound was ordered.

3 27. On October 15, 2014, plaintiff reported to the facility
4 clinic and was seen by defendant MURAKONDA and again pointed
5 out the obvious lump and infection in the surgical area and
6 complained of acute pain. Defendant MURAKONDA refused to
7 examine the scrotum.

8 28. On October 17, 2014, the results of the ultrasound on
9 plaintiff's scrotum was completed and the penrose drain was
10 clearly visible through the skin. A protective skin had grown
11 around the drain because of the excessive time lapse. As a
12 result, another surgery would have to be performed to remove
13 the drain which necessitates the cutting of plaintiff's
14 scrotum.

15 29. As a result of the deliberate indifference of defendants
16 and all defendants in refusing to properly treat plaintiff with
17 adequate medical care, plaintiff suffered an infection in his
18 scrotum, pain and suffering, headaches, loss of sleep and
19 emotional distress. Plaintiff had to endure an additional
20 surgery to remove the penrose drain causing additional pain and
21 suffering.

22 30. On October 30, 2014, surgery was performed by defendant
23 SAMUEL LEE removing an eight to ten (8-10") inch penrose from
24 plaintiff's scrotum. Defendant LEE stated, he has done
25 thousands of these procedures and never has seen this and that
26 "after care should not have to be spelled out." As a result
27 of the second surgery, plaintiff suffered more swelling of the
28

1 scrotum causing pain, headaches, loss of sleep, and emotional
2 distress. Plaintiff was again refused a wheelchair and was
3 forced to walk with an extremely swollen scrotum for several
4 days post operation.

5 31. There was an inexcusable practice of deliberate
6 indifference by defendants' SOTO, MURAKONDA, ROSAS, KALIAN,
7 KURTZMAN and CAPP by improperly refusing to treat plaintiff
8 with post-op dressing changes and ignoring plaintiff's
9 complaints of pain and insistence that the penrose drain was
10 still intact. The "gatekeeping" by defendant KUNDA was
11 deliberate indifference to plaintiff's serious medical needs.
12 The deliberate indifference of defendants caused an infection
13 of the scrotum and a protective skin to grow around the penrose
14 drain due to the extensive amount of time it took from the
15 initial surgery to the ultrasound and ultimately to the second
16 surgery.

17 32. As the Chief Medical Officer at CVSP Doctor J. MICHAEL LEE
18 failed to ensure that plaintiff receive adequate medical
19 treatment and failed to adequately supervise and train staff
20 and put in place in procedures so that plaintiff would receive
21 medically appropriate care. As the Supervising Registered Nurse
22 III, S. RODRIGUEZ, failed to ensure that plaintiff received
23 adequate post-op treatment and failed to adequately supervise
24 and train defendant Registered Nurses and Licensed Vocation
25 Nurses, KALIAN, KURTZMAN, SOTO, ROSAS, CAPP and HART. As the
26 Supervising Nurse II, N. HART failed to ensure that plaintiff
27 receive adequate post-op treatment and failed to adequately

1 supervise and train said nurses.

2 33. Plaintiff presented his state claim to the Victim
3 Compensation and Government Claims Board within 180 days and
4 complied with the applicable claims statutes within the Govt.
5 Claims Act of Govt. Code §900 et seq.

6 34. Plaintiff exhausted his administrative remedies by
7 obtaining a decision at the third level decision and was
8 diligent in filing this complaint thereafter.

9 FIRST CLAIM FOR RELIEF

10 (§1983)

11 Violation Of Prisoner's Eighth And Fourteenth
12 Amendments For Deliberate Indifference To
13 His Serious Medical Needs

14 35. Plaintiff realleges and incorporates by reference each
15 allegation of paragraphs 1 through 32, inclusive, as if alleged
16 herein.

17 36. Defendant K. KUNDA violated plaintiff's Eighth and
18 Fourteenth Amendment rights to the U.S. Constitution to be
19 protected from cruel and unusual punishment by "gatekeeping"
20 at the facility medical clinic preventing plaintiff access to
21 medical care which caused, in part, the penrose drain to infect
22 plaintiff's scrotum resulting in pain and suffering as
23 described in paragraphs 1 through 32 and an unnecessary second
24 procedure to the penrose drain. Defendant KUNDA acted under
25 color of state law and knew or should have known that his
26 conduct created an unreasonable risk of harm to plaintiff. As
27 a direct and foreseeable result of KUNDA'a violations of

1 plaintiff's constitutional rights, plaintiff suffered pain,
2 headaches, loss of sleep, and emotional distress. Defendant's
3 KUNDA's acts were willful, intentional, wanton and in conscious
4 disregard of plaintiff's rights as described in paragraphs 21
5 & 23.

6 37. Defendants JOHN F. KENNEDY MEMORIAL HOSPITAL, Dr. SAMUEL
7 S. LEE, Chief Medical Officer J. MICHAEL LEE, Dr. S. MURAKONDA,
8 Supervising Registered Nurse III S. RODRIGUEZ, Supervising
9 Registered Nurse II N. HART, violated plaintiff's Eighth and
10 Fourteenth Amendment rights to the U.S. Constitution by failing
11 to ensure that plaintiff receive adequate treatment and failed
12 to adequately supervise and train and put in place procedures
13 so that plaintiff would receive medically appropriate care as
14 described in paragraphs 1-32. Defendants Dr. SAMUEL S. LEE,
15 Chief Medical Officer J. MICHAEL LEE, Dr. S. MURAKONDA,
16 Supervising Registered Nurse III S. RODRIGUEZ, Supervising
17 Registered Nurse II N. HART, acted under the color of state
18 law and knew or should have known that their conduct created
19 an unreasonable risk of harm to plaintiff As a direct and
20 foreseeable result of their violations of constitutional
21 rights, plaintiff suffered unnecessary pain, headaches, loss
22 of sleep and emotional distress. All defendants acts were
23 willful, intentional, wanton and in conscious disregard of
24 plaintiff's rights. The constitutional deprivations described
25 herein are the proximate result of the official policies,
26 customs and pervasive practices of defendants. Defendants have
27 been and are aware of all the deprivations complained herein

and have condoned or been deliberately indifferent to such conduct.

38. Defendants KALIAN, KURTZMAN, CAPP and ROSAS violated
plaintiff's Eighth and Fourteenth Amendment rights to the U.S.
Constitution to be protected from cruel and unusual punishment
as described in paragraphs 1 through 32. Defendant's were
deliberately indifferent to plaintiff's medical needs and acted
under color of state law and knew or should have known that
their conduct or omission created an unreasonable risk of harm
to plaintiff. As a direct and foreseeable result of
defendant's KALIAN, KURTZMAN, CAPP and ROSAS' violation of
plaintiff's constitutional rights, plaintiff suffered an
unnecessary second surgery to his scrotum that caused pain and
suffering, headaches, loss of sleep and emotional distress.

LEGARE IS ENTITLED TO AN AWARD OF COMPENSATION AND PUNITIVE
DAMAGES FOR INJURIES SUFFERED.

SECOND CLAIM

Violation Of California State Torts

Claims Act For Medical Negligence

20 39. Plaintiff realleges and incorporates by reference each
21 allegation of paragraphs 1 through 3229, inclusive, as if
22 alleged herein.

23 40. Defendant K. KUNDA violated plaintiff's rights to be
24 treated with adequate medical care under the California State
25 Torts Act by "gatekeeping" at the facility medical clinic
26 preventing plaintiff access to medical care which caused, in
27 part, the penrose drain to infect plaintiff's scrotum resulting

1 in pain and suffering as described in paragraphs 1 through 32
2 and an unnecessary second procedure to remove the penrose
3 drain. Defendant KUNDA acted under color of state law and knew
4 or should have known that his conduct created an unreasonable
5 risk of harm to plaintiff. As a direct and foreseeable result
6 of KUNDA'a violations of plaintiff's constitutional rights,
7 plaintiff suffered pain, headaches, loss of sleep, and
8 emotional distress. Defendant's KUNDA's acts were willful,
9 intentional, wanton and in conscious disregard of plaintiff's
10 rights as described in paragraphs 21 & 23.

11 41. Defendants JOHN F. KENNEDY MEMORIAL HOSPITAL, SAMUEL S.
12 LEE, Chief Medical Officer J. MICHAEL LEE, Dr. S. MURAKONDA,
13 Supervising Registered Nurse III S. RODRIGUEZ, Supervising
14 Registered Nurse II N. HART, violated plaintiff's rights to
15 be treated with adequate medical care under the California
16 State Torts Act rights by failing to ensure that plaintiff
17 receive adequate treatment and failed to adequately supervise
18 and train and put in place procedures so that plaintiff would
19 receive medically appropriate care as described in paragraphs
20 1-32. Defendants JOHN F. KENNEDY MEMORIAL HOSPITAL, Dr. SAMUEL
21 S. LEE, Chief Medical Officer J. MICHAEL LEE, Dr. S.
22 MURAKONDA, Supervising Registered Nurse III S. RODRIGUEZ,
23 Supervising Registered Nurse II N. HART, acted under the color
24 of state law and knew or should have known that their conduct
25 created an unreasonable risk of harm to plaintiff. As a direct
26 and foreseeable result of their violations of constitutional
27 rights, plaintiff suffered unnecessary pain, headaches, loss

1 of sleep and emotional distress. All defendants acts were
2 willful, intentional, wanton and in conscious disregard of
3 plaintiff's rights. The constitutional deprivations described
4 herein are the proximate result of the official policies,
5 customs and pervasive practices of defendants. Defendants have
6 been and are aware of all the deprivations complained herein
7 and have condoned or been deliberately indifferent to such
8 conduct. LEGARE IS ENTITLED TO AN AWARD OF COMPENSATION AND
9 PUNITIVE DAMAGES FOR INJURIES SUFFERED.

10 42. Defendants KALIAN, KURTZMAN, CAPP and ROSAS violated
11 plaintiff's violated plaintiff's rights to be treated with
12 adequate medical care under the California State Torts Act as
13 described in paragraphs 1 through 32. Defendant's were
14 deliberately indifferent to plaintiff's medical needs and acted
15 under color of state law and knew or should have known that
16 their conduct or omissions created an unreasonable risk of harm
17 to plaintiff. As a direct and foreseeable result of
18 defendant's KALIAN, KURTZMAN, CAPP and ROSAS violation of
19 plaintiff's constitutional rights, plaintiff suffered an
20 unnecessary second surgery to his scrotum that caused pain and
21 suffering, headaches, loss of sleep and emotional distress.

22
23 PRAYER FOR RELIEF

24 Wherefore, Plaintiff JASON PAUL LEGARE, prays for the
25 following relief:

- 26 1. Declaratory relief;
27 2. Compensatory Damages according to proof;

3. Punitive and Exemplary Damages according to proof;
 4. Cost of Suit; and
 5. Such further relief as the court deems proper.

DEMAND FOR TRIAL

Plaintiff, JASON PAUL LEGARE hereby demands a trial by
jury.

Dated: 3.30 . 2015

Jason Paul Legare

I declare under the penalty of perjury that the foregoing
is true and correct.

EXECUTED this 30TH day of MARCH 2015, at Blythe,
California.

Jason Paul Legare





JASON HIGGINS

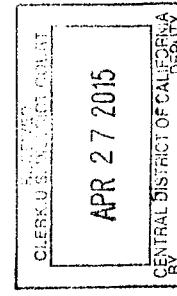
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United States District Court
Central District of California
312 N. Spring St., Room 6-8

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